



ADMINISTRATIVE RULES OF MONTANA



37.62.951 MOTION TO REVIEW PROPOSED ORDER

- (1) Within 20 days after service of a proposed decision and order any party may file a motion to review the order.
- (2) A motion to review must set out, with specificity, one or more of the following grounds upon which a proposed order may be reviewed:
 - (a) Through inadvertence or mistake, the ALJ overlooked an important fact presented at the hearing which could affect the decision;
 - (b) The ALJ considered some fact that is not in the hearing record;
 - (c) A party requested a specific finding of fact or conclusion of law which was not made;
 - (d) The ALJ failed to consider a law, a policy or other material under ARM 37.62.905 which the ALJ should have included as a matter of course;
 - (e) The ALJ inappropriately applied official notice to a fact or other material under ARM 37.62.929;
 - (f) When the admissibility of evidence was ruled upon after a matter was submitted for decision, the ALJ improperly accepted or rejected the evidence;
 - (g) New evidence was discovered or became accessible after the hearing was closed and that evidence was not reasonably available at the time of the hearing;
 - (h) The ALJ based the order on a mistake of fact or law; or
 - (i) There have been intervening changes in controlling law.
- (3) A motion to review is not for the purpose of:
 - (a) allowing the parties to present the case under new theories;
 - (b) presenting arguments which the ALJ has already considered and rejected;
 - (c) raising arguments which could or should have been made before the initial decision was rendered; or
 - (d) rehearing the case on the merits.
- (4) The motion must be considered by the same presiding ALJ who issued the proposed decision and order.

- (5) The presiding ALJ may, upon the ALJ's own initiative and without need for a motion, initiate a review under this rule. The provisions of (6) then apply as if a timely motion to review had been made by a party.
- (6) Upon receipt of a timely filed motion to review which specifies one or more of the grounds set out in (2), the presiding ALJ shall afford each party an opportunity to respond to the motion and, upon request, to present oral argument and submit written briefs on the matters raised by the motion. After considering the motion and the responses to the motion, the ALJ may affirm the proposed decision or correct, amend or modify it as necessary. If affirmed, the proposed order shall be enacted as a final CSSD order. The enacted order takes effect as to its terms on the date it is enacted. If corrected, amended or modified, the ALJ shall issue a revised decision and order that is consistent with the proposed order as corrected, amended or modified. The revised decision and order shall be effective as a final CSSD decision and order on the day it is signed by the ALJ. Copies of decisions and orders that become final under this rule shall be delivered or mailed to each party, and to each party's attorney if any.

Authorizing statute(s): 17-4-105, 40-5-202, 40-5-262, 40-5-272, 40-5-273, 40-5-405, 40-5-713, 40-5-825, 40-5-906, MCA

Implementing statute(s): 17-4-105, 40-5-157, 40-5-202, 40-5-208, 40-5-226, 40-5-233, 40-5-261, 40-5-271, 40-5-273, 40-5-414, 40-5-431, 40-5-703, 40-5-710, 40-5-821, 40-5-822, 40-5-823, 40-5-824, 40-5-906, MCA

History: NEW, 2000 MAR p. 3547, Eff. 12/22/00; AMD, 2020 MAR p. 966, Eff. 5/30/20.